## REMARKS

Reexamination and reconsideration of this application in view of the following remarks is respectfully requested. By this amendment, claims 1, 9, 12 and 17 are amended; claims 4, 5, 8, 13, 16, 20 and 21 are canceled; and no new claims are added. After this amendment, claims 1, 2, 3, 9, 10, 11, 12, 17, 18 and 24 remain pending in this application.

## Claim Rejections - 35 USC §101

Reconsideration of the rejection of claims 9-13 and 16 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter, is respectfully requested in view of the amendments to the specification. In the paragraph that begins on page 28, line 3, all references to "transitory state medium" were deleted. In the previously filed amendment, the phrase "computer readable medium" was changed to "computer readable storage medium" in claims 9-13 and 16. The claims that have the recitation "computer readable storage medium" should be allowed because a storage medium is a physical structure, and because a storage medium is not a transitory state medium (such as a carrier wave).

## Claim Rejections - 35 USC §102

Reconsideration of the rejection of claims 1-4, 9-12, 17-18, 20 and 24 under 35 U.S.C. §102(b) as being anticipated by Pham et al., (U.S. Pat. No. 4,750,116), hereinafter "Pham", is respectfully requested in view of the cancellation of claims 4, 5 and 8, in view of the amendments to claim 1, and for the following reasons.

Pham describes a system that manages hardware resources when more than one software application contends for a same hardware resource. Pham describes how and when conflicting resources are claimed or sometimes "stolen" from another software application, and then returned after being used. In Pham, there is no discussion of whether a software application (once it has "stolen" hardware resources) can run on the electronic device.

On the other hand, the invention claimed in the present application concerns changing a hardware function (such as microprocessor clock speed and/or display refresh rate) to match the needs of a certain single software application.

The Examiner cited 35 U.S.C. §102(b), and a proper rejection requires that a single reference teach, i.e., identically describe, each and every element of the rejected claims as being anticipated by Pham. "To anticipate a claim, the reference must teach every element of the claim". See MPEP ¶2131. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." Richardson v. Suzuki Motor Co., 868 F2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 1 has been amended to more clearly recite the invention. The changes made to claim 1 find support in the specification, including, for example, at page 23, lines 7-8. No new matter was added. Pham fails to disclose all the steps of amended claim 1. In particular, Pham fails to disclose the following steps of amended claim 1, to wit:

> "prompting the user for agreement to modify the electronic device,
> in response to a command indicating agreement, modifying the electronic device to meet the application resource requirement associated with the application"

The argument set forth above with regard to claim 1, also applies to independent claim 17.

Claim 9 has been amended to more clearly recite the invention. The changes made to claim 9 find support in the specification, including, for example, in the paragraph that begins on page 20, line 16. No new matter was added. Pham fails to disclose all the steps of amended claim 9.

In particular, Pham fails to disclose the second step and the fourth step of amended claim 9, to wit:

> "reading an application priority level application resource requirement associated with the application, in which the application priority level application resource requirement indicates a criticality of the application by monitoring background/foreground mode information for the application;
>
> switching the running of the application between one of background mode and foreground mode, based upon current application resources."

Furthermore, claims 2 and 3 depend upon independent claim 1, claims 10, 11 and 12 depend upon independent claim 9, and claims 18 and 24 depend upon independent claim 17, and because dependent claims recite all the limitations of the independent claim, it is believed, for this additional reason, that dependent claims 2, 3, 10, 11, 12, 18 and 24 also recite in allowable form.

Accordingly, in view of the remarks above, in view of the amendments to claims 1, 9, 12 and 17, in view of the cancellation of claims 4 and 20, and because Pham does not teach, anticipate, or suggest the presently claimed invention, the Applicants believe that the rejection of claims 1-4, 9-12, 17-18, 20 and 24 under 35 U.S.C. §102(b) has been overcome. The Examiner should withdraw the rejection of these claims.

## Claim Rejections - 35 USC §103

Reconsideration of the rejection of claims 5, 8, 13, 16 and 21 under 35 U.S.C. §103(a) as being unpatentable over Pham (U.S. Pat. No. 4,750,116) in view of Rawson et al., (U.S. Pat. No. 5,682,204), hereinafter "Rawson", is respectfully requested in view of the cancellation of claims 5, 8, 13, 16 and 21.

## Conclusion

The foregoing is submitted as full and complete response to the Office Action having a notification date of October 2, 2007. It is believed that the application is now in condition for allowance. Allowance of claims 1, 2, 3, 9, 10, 11, 12, 17, 18 and 24 is respectfully requested.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless the Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Applicants acknowledge the continuing duty of candor and good faith in the disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment is limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

The present application, after entry of this Response, comprises ten (10) claims, including three (3) independent claims. The Applicants have previously paid for twenty-three (23) claims including three (3) independent claims. The Applicants, therefore, believe that a fee for claims amendment is currently not due.

The Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to Deposit Account No.: **50-1556**.

**PLEASE CALL** the undersigned attorney at (561) 989-9811, should the Examiner believe a telephone interview would help advance prosecution of the application.

Respectfully submitted,

Date: October 30, 2007

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